

# **Rye City Planning Commission Minutes**

March 13, 2001

## **PRESENT:**

Peter Larr, Vice Chairman  
Brian Spillane  
Joseph P. Cox  
Lawrence H. Lehman  
Doug McKean

## **ABSENT:**

Michael W. Klemens, Chairman  
Philip DeCaro

## **ALSO PRESENT:**

Christian K. Miller, AICP, City Planner  
Chairman Hodnett, Conservation Commission/Advisory Council  
George Mottarella, City Engineer  
Chantal Detlefs, City Naturalist

Acting Chairman Brian Spillane called the regular meeting to order in the Council Hearing Room of the City Hall and a quorum was present to conduct official business.

## **I. HEARINGS**

### **1. Apawamis Club**

Acting Chairman Brian Spillane opened the meeting by indicating that Chairman Klemens will not be present for the meeting and that Vice-Chairman Larr has recuse himself from reviewing the Apawamis matter. Acting Chairman Spillane briefly summarized the difference between a hearing, which the comments of the public are legally required to be heard and a work session, which is for the benefit of the Planning Commission to review the application in a public setting, but not necessarily to hear public testimony.

Acting Chairman Spillane then read the public notice, explained the nature of the application, the purpose of the hearing and opened the public hearing.

Mr. Frank S. McCullough, Esq., applicant's representative, began the hearing with an overview of the application. Mr. McCullough noted that the application involves a request for approval of the modification of an approved permit for a use permitted subject to additional standards and requirements and modification of an approved preliminary and final site plan for the purpose of constructing an approximately 3,700 square-foot addition

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to the existing clubhouse, construction of an additional 32 parking spaces and installation of a new warming hut and associated decking.

Since its informal session with the Commission in February, Mr. McCullough noted that the application has been revised to eliminate the previously proposed relocation of the all-purpose court. The existing court will be removed to accommodate the proposed parking modifications, but the new court will not be provided north of the existing tennis courts as previously proposed. This modification was made in response to a finding by the City Planner that the proposed relocated court would likely require a wetlands permit from the Commission. Mr. McCullough indicated that the proposed court may be presented by the applicant in a future submission.

Mr. McCullough provided an historical overview of the property. The golf course and clubhouse was first opened in 1890. A fire occurred in 1907 that required the complete reconstruction of the clubhouse. In 1928, a ballroom was added to the clubhouse. Over the years there have been other miscellaneous modifications to the building. The most recent occurred in 1997 in connection with the addition of a squash court and a parking lot modification.

Mr. McCullough emphasized that the current application is intended to better serve the existing club membership and not to accommodate additional club members.

Mr. McCullough then reviewed the compliance of the application with the Zoning Code requirements and the criteria for uses permitted subject to additional standards and requirements.

Mr. McCullough disclosed a conceptual master plan for the proposed golf course modifications, which will be submitted to the Commission in the near future as a separate application. The applicant is in the process of retaining an environmental consultant to flag the wetland areas on the property. Changes to the course are anticipated within the vicinity of the tee and practice area near hole 17, the practice putting green, driving range and holes 11, 12 and 13.

Mr. Bob Roth of John Meyer Consulting, applicant's engineer, provided a more detailed overview of the proposed clubhouse renovations including changes to the locker room, ballroom, lounge area and rear patio. He provided an overview of the renderings and building elevations, which he noted had been revised at the request of the Planning Commission at its February informal review to include the type and color of building materials.

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Mr. Roth discussed the proposed 500 square-foot warming hut near the existing paddle tennis courts. This improvement also includes new wood decking and observations bleachers near the southern court.

Mr. Roth reviewed the proposed parking lot modifications near the clubhouse. All parking on the property would meet the requirements of the Zoning Code. Mr. Roth concluded the applicant's presentation by reviewing the modification and expansion of the parking in southeast corner of the property. He noted that the parking area was designed to preserve the two large existing oak trees, provide additional perimeter landscaping and a new six-foot high stockade fence.

After the conclusion of the applicant's presentation the Commission inquired as to the proposed golf course improvements contemplated by the applicant and whether failure to incorporate those improvements into the current application constitutes segmentation under SEQRA. The Commission was concerned about the potential precedent it might set for other applicant's to breakdown actions into smaller projects that fall below established SEQRA thresholds thereby avoiding the need for an environmental impact statement.

Mr. McCullough responded by indicating that the application is not segmented since the applicant disclosed its future intentions and provided a conceptual master plan for the entire property. In addition, Mr. McCullough noted that if necessary, the Planning Commission will be required to make a separate determination of significance for the golf course improvements at which time it could determine that the application may have a significant adverse impact on the environment requiring the preparation of an environmental impact statement. The City Planner concurred with Mr. McCullough's interpretation and added that the determination of significance for the clubhouse improvements would be specifically limited to that application.

a motion was made by Brian Spillane, seconded by Joe Cox and carried by the following vote:

AYES:	Brian Spillane, Joseph P. Cox, Lawrence H. Lehman, Douglas McKean
NAYES:	None
ABSTAIN:	Peter Larr
ABSENT:	Michael W. Klemens, Philip DeCaro

the Planning Commission took the following action:

**ACTION:** The Planning Commission adopted a Negative Declaration of environmental significance in connection with the proposed Modified Preliminary and Final Site Plan and Use Permitted Subject to Additional Standards.

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The Commission continued the public hearing requesting comments from the public. First to speak was Mr. Mike Evans of 10 Dogwood Lane. Mr. Evans indicated that he has lived in the City for approximately 10 years and has found Apawamis to be an excellent neighbor. He indicated that he is not a member of the Club. He noted that he met with the City Planner, who was generous with his time, to discuss the proposed application. His concern was with the stormwater runoff from the Apawamis property and Dogwood Lane that ponds in his front yard during storm events. He requested that any new improvements for the club include appropriate drainage provisions. He also noted that the City should do what it can to maintain the drainage system near his property.

The Commission questioned Mr. Evans if he felt that there was anything specific about the application with respect to drainage that caused him concern. He indicated that there was not, particularly with the removal of the all-purpose court from the application.

There being no additional comments or questions from the public or the Commission, the public hearing was closed.

## **II. ITEMS PENDING ACTION**

### **1. Apawamis Club**

The Commission began its discussion by asking the applicant to discuss the existing drainage patterns on and near the property and whether any improvements could be made to the existing conditions. The applicant acknowledged the presence of these existing problems, but noted that the current application does not contribute to an increase in this condition. The City Engineer concurred that the increase in drainage from the proposed improvements was insignificant. The City Engineer also suggested and the applicant volunteered to review drainage conditions in the area in connection with the future golf course improvements. This future application may afford the club a better opportunity to improve on- and off-site drainage conditions. After considerable discussion, it was agreed that the applicant will provide a drywell to accommodate the modest increase in impervious area associated with the proposed warming hut.

On a motion made by Brian Spillane, seconded by Douglas McKean and carried by the following vote:

AYES: Brian Spillane, Joseph P. Cox, Lawrence H. Lehman, Douglas McKean

NAYES: None

ABSTAIN: Peter Larr

ABSENT: Michael W. Klemens, Philip DeCaro

the Planning Commission took the following action:

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**ACTION:** The Planning Commission adopted Resolution No. 05-2001 granting Modified Preliminary and Final Site Plan and Use Permitted Subject to Additional Standards for the application subject to the applicant providing a drywell to accommodate the increase in stormwater for the warming hut.

For the remainder of the meeting Vice-Chairman Larr served as Acting Chairman. Mr. Larr and other members of the Commission thanked Mr. Spillane for his service and complimented his chairmanship abilities.

### **2. Vickers Subdivision**

The City Planner provided an overview of the application which involves a request by Georgia Vickers and Ray Kelly, property owners, to approve a one-year extension of the final approval to subdivide a 2.3-acre parcel located on Central Avenue into four lots, one of which will serve the existing residence on the property. The City Planner noted that the application was originally approved by the Planning Commission in 1987 and since that time the Commission has granted 13 consecutive one-year extensions. All conditions of original approval have been satisfied except that the applicant has not completed the common driveway improvements. The map is filed in the Westchester County Land Records Office, the requisite bond has been posted and two of the four approved lots have been sold to an adjacent property owner.

Consistent with prior practice, the City Planner recommended that the Planning Commission consider the adoption of the draft resolution approving the requested extension of time.

On a motion made by Brian Spillane, seconded by Joseph P. Cox and carried by the following vote:

**AYES:** Peter Larr, Brian Spillane, Joseph P. Cox, Lawrence H. Lehman, Douglas McKean

**NAYES:** None

**ABSTAIN:** None

**ABSENT:** Michael W. Klemens, Philip DeCaro

the Planning Commission took the following action:

**ACTION:** The Planning Commission adopted Resolution No. 04-2001 granting the extension of time for the Vickers Subdivision (SUB# 213).

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The Commission further requested that the City Planner prepare a memorandum in consultation with Corporation Counsel regarding the approval procedure for the extension of conditionally approved subdivision applications in other communities.

### **3. Stern Pool**

Since the applicant was not present for this matter, the Planning Commission did not formally hear the modified wetland permit application. The application involves a request for amended wetland permit approval to construct a swimming pool, retaining wall and fence within a 100-foot regulated wetland buffer. A prior wetland permit application (WP# 59) was approved by the Commission in May 1999 and later extended in March 2000 in connection with an addition to a existing residence. This work is currently underway on the property.

The Commission did conduct a brief discussion in which it requested that the next application submission address the comments of the City Conservation Commission/Advisory Council (CC/AC) dated March 9, 2001. The Commission requested that the City Planner forward this letter to the applicant.

The Commission noted concern with the precedent it may set with respect to approving structures within the wetland buffer. It requested that the City Planner provide a summary of the prior wetland approval with a specific discussion of why the previously proposed swimming pool was removed from the prior application.

The Commission also requested that the City Planner convey to the applicant that all relevant notes pertaining to the construction of the proposed retaining wall be provided on the site plan drawing.

### **4. Minutes**

The Planning Commission reviewed and requested minor revisions to the draft minutes of its February 27, 2001 meeting.

On a motion made by Brian Spillane, seconded by Joseph P. Cox and carried by the following vote:

AYES:	Peter Larr, Brian Spillane, Joseph P. Cox, Lawrence H. Lehman, Douglas McKean
NAYES:	None
ABSTAIN:	None
ABSENT:	Michael W. Klemens, Philip DeCaro

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the Planning Commission took the following action:

**ACTION:** The Planning Commission adopted with revisions the minutes of its February 27, 2001 meeting.

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### **III. Miscellaneous Items**

#### **1. Anticipated Absences**

Vice Chairman Larr indicated that he will not be able to attend the April 10, 2001 meeting of the Planning Commission.

#### **2. Informal Reviews**

##### **2a. Manursing Island Club**

Ken Noles, Club President, began the presentation by introducing himself, Margaret Day, applicant's engineer, and Albert R. Brunner, Club Manager. Mr. Brunner provided an overview of the application, which involves the installation of a tennis bubble over existing tennis courts (no. 8 and 9) located on the property. Mr. Brunner explained that the bubble would enhance the tennis opportunities for its club members.

Mr. Brunner provided a handout which described the details of the application. The bubble would be approximately 14,000 square feet and approximately 38 feet high. It would consist of a white, translucent, vinyl coated polyester material and would resemble a bubble that exists at the Renaissance Inn on Red Oak Lane in White Plains. The bubble would be open from 8 AM to 10 PM everyday between October and April. There would be no external lighting for the bubble.

Ms. Day then provided an overview of page three of the handout indicating that the proposed bubble would be approximately 100 feet from the Edith Reed Sanctuary property line and over 300 feet to the nearest public trail. The distance of the bubble from Long Island Sound is approximately 350 feet and more than 100 feet from the nearest wetland. The structure would be located within flood zone A8, but noted that the bubble is a temporary structure and would not pose a threat to human safety or property.

The Commission requested that the applicant provide more information regarding the structural safety of the bubble, particularly during strong coastal wind events. The applicant should also provide examples of bubbles in similar coastal environments. Ms. Day noted that a significantly larger bubble is located near Giants Stadium. She also noted that she will provide for the Commission the engineering specifications for the proposed structure.



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The Commission inquired as to the type of generators that will be necessary to keep the bubble inflated. Ms. Day indicated that the bubble will have 7.5 horsepower (hp) electric generator, a 7.5 hp backup electric generator and 10 hp backup propane generator.

The Commission questioned the potential lighting glow of the proposed bubble. The structure is translucent which takes advantage of natural light during the day, but may have adverse impacts at night. The Commission also discussed the need for additional lighting outside the bubble, such as along pathways and parking areas. Ms. Day indicated that existing lighting on the property would suffice.

A letter from the Friends of Read Wildlife Sanctuary, Inc. dated March 13, 2001 was also received by the Planning Commission just prior to the start of the meeting. The Commission acknowledged the receipt of the letter and requested the City Planner to forward it to the CC/AC for their review and comment. The Commission also acknowledged the receipt of a letter from the CC/AC dated March 9, 2001 regarding this matter.

The Commission requested that the site plan identify the location of the emergency access and other accessory structures required for the bubble.

The Commission requested that the applicant carefully explore the floodplain management and drainage issues of the proposed bubble. This included elevating above the flood elevation or flood-proofing the proposed generators.

The Commission recognized that the proposed bubble is consistent with the needs of the club, which primary mission is providing tennis opportunities for its members. It noted, however, that the club should carefully review the application in light of each of the policies of the LWRP.

The Commission requested that the applicant and City Planner confirm that the bubble complies with the Zoning Code, particularly the setback requirements from perimeter property lines and roadways. The City Planner indicated that bubble will need to comply with the setbacks required from buildings, but that based on conversations with the Building Inspector the internal driveway will not be considered a road for the purposes of establishing the required front yard.

With respect to the hours of operation the Commission requested that the applicant consider reducing the lighting level after 9:00 PM if the bubble is not in use. The applicant agreed to make that accommodation.

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The Commission questioned the security measures for the bubble. The applicant indicated that the existing security staff for the property will lock the facility when not in use. The applicant also noted that it will not use the facility for any purpose other than tennis such as weddings, social events, etc.

### **2b. June & Ho**

Donald Keepler, applicant's architect, introduced himself to the Commission and began with an overview of the project, which involves the demolition of June & Ho's existing one-story, 2,400 square-foot building at 70 Purchase Street and construction of a new three-story, 3,500 square-foot building. All three of June & Ho's retail stores (deli, flower shop, fish market) will be consolidated in the building. Mr. Keepler indicated that June & Ho's existing stores would remain open until construction on the new building was completed.

Mr. Keepler noted that the existing building to be demolished is in poor condition and lacks basement storage space. The design concept of the new building is to acknowledge the public space towards the rear of the building. The owners desired a design that is welcoming to the public entering the building from the rear parking area. The first floor would be used for retail. Unlike the existing June & Ho store, no sit-down tables are proposed due to space efficiency considerations. A small coffee bar is proposed.

The second floor would include an expo or theatrical kitchen where the internal cooking operations would be visible to the outside through large windows on the front and rear of the building.

The Commission forwarded the comments of the Board of Architectural Review (BAR) for the Mr. Keepler consideration. The BAR noted that it preferred a building that was more contextual. Mr. Keepler responded by stating that it was his preference to create a building somewhat unique and had a clean and simple appearance. It was not his desire to create a structure that imitated or copied the existing architecture on Purchase Street.

The City Planner noted that the subject application would use the rear portion of the lot to include landscaping and small courtyard. This would be the first building along this portion of Purchase Street that would have a more desirable rear entrance, from an aesthetic perspective. He inquired with the Commission that it may prefer parking in this location. It was noted that under the current configuration, only one parking space could be provided. The City Planner recommended that the Commission provide direction to the applicant as to whether it preferred using the rear portion of the

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building for more functional (i.e. parking, loading, refuse disposal, etc.) rather than aesthetic purposes.

It was the consensus of the Commission that the rear of the building should be for functional purposes. The amount of on-site parking and loading should be maximize and the dumpster area should be increased. The Commission emphasized that daily refuse disposal for the use will be required.

The Commission inquired as to the need for the proposed stairwell towards the rear of the building. The City Planner noted that the stairwell does not appear necessary for Building Code purposes, uses valuable land area towards the rear of the building that could be used for other purposes and may pose security issues for both the property owner and the City Police Department. Mr. Keepler indicated that he would review the Building Code requirements and consider eliminating the stairwell in future site plan submissions.

The Commission suggested that the building foundation may need to be replaced to accommodate a new two-story structure. Mr. Keepler agreed, but that a structural engineer will review the plans for any necessary improvements to the existing foundation.

The Commission requested that the applicant carefully review the floor plans for compliance with the Americans with Disabilities Act (ADA), particularly with respect to required access points.

### **2c. Davidson**

Mr. Scott Davidson, property owner, provided an overview of the modified wetland permit application, which involves the construction of a new spa, staircase and landing within a 100-foot wetland buffer. There will be a net reduction of impervious area of 9 square feet. Mr. Davidson reminded the Commission that this property recently received a wetland permit approval for the construction of a retaining wall along the waters edge. Construction of this wall is anticipated shortly.

The Commission noted concern with modifications to approved wetland permits that may result in the incremental increase in the extent of regulated activities with wetland buffers. The Commission noted, however, that in this instance the prior wetland permit established a new seawall that delineated the extent of wetland encroachment and that the currently proposed hot tub and decking would not impact that prior approval. The Commission further noted that the proposed activity was consistent with the current residential use of the property and that the project would result in a reduction of impervious area within the buffer.

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The Commission questioned whether BAR approval was necessary for the application. The City Engineer noted that if the height of the wall adjacent to the hot tub was reduced to less than two feet, that BAR approval would not be necessary. The applicant indicated that it will revise the plans to reduce the wall height.

The Commission requested that the plans be revised to more clearly differentiate existing, approved and proposed improvements.

### **3. Other Business**

None

### **4. Correspondence**

The Planning Commission reviewed the Letter to Mr. Michael Klemens from R. Demarest Duckworth, III dated December 15, 2000 regarding sidewalks near Rye Country Day School and response letter from Peter Larr to Mr. Duckworth dated February 28, 2001. The Commission requested that the City Engineer and Planner review the letters, conduct a site inspection and report back to the Commission on the most appropriate course of action.

There being no further business the Commission unanimously adopted a motion to adjourn the meeting at approximately 10:20 p.m.

Christian K. Miller, AICP  
City Planner